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March 17, 2022

**Via FOIA Request Portal and Certified Mail**

National FOIA Office  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2310A)  
Washington, DC 20460

**Re: FOIA Request Relating to Diesel Emissions Tampering**

Dear Sir/Madam,

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, we hereby make the following request for records to the Environmental Protection Agency ("EPA"), as specified below. Please be advised that our law firm, along with Gardner Brewer Martinez-Monfort, P.A. and the Law Office of Thomas L. Young, P.A., represents the Environmental Protection Commission of Hillsborough County, Florida ("EPC") in two pending lawsuits<sup>1</sup> relating to the use of defeat devices in certain Affected Vehicles, as well as the continued programming of the defeat devices<sup>2</sup> through post-sale software updates that were installed in the following Affected Vehicles:

Volkswagen vehicles:

<b>2.0 Liter Diesel Models and Years</b>	
Volkswagen Jetta	2009-2015
Volkswagen Jetta SportWagen	2009-2014
Volkswagen Beetle	2012-2015
Volkswagen Beetle Convertible	2012-2015
Audi A3	2010-2015
Volkswagen Golf	2010-2015
Volkswagen Golf SportWagen	2015
Volkswagen Passat	2012-2015

<sup>1</sup> *Environmental Protection Commission of Hillsborough County, Florida v. Volkswagen Group of America Inc. et al.*, Case No. 16-cv-2210 (N.D. Cal.); and *Environmental Protection Commission of Hillsborough County, Florida v. Mercedes-Benz USA, LLC et. al.*, 8:20-cv-02238 (M.D. Fla.).

<sup>2</sup> For purposes of this request, defeat device means and refers to any device that reduces the effectiveness of, or turns off, the Affected Vehicles' emission control system under conditions which may reasonably be expected to be encountered in normal vehicle operation and use as defined in 40 C.F.R. § 86.1803-01, including but not limited to a device that results in different combustion emissions outputs when the Affected Vehicles are operating in a testing environment or during the cold start phase versus on-road operation.

<b>3.0 Liter Diesel Models and Years</b>	
Volkswagen Touareg	2009-2016
Porsche Cayenne	2013-2016
Audi A6 Quattro	2014-2016
Audi A7 Quattro	2014-2016
Audi A8	2014-2016
Audi A8L	2014-2016
Audi Q5	2014-2016
Audi Q7	2009-2016

Mercedes Vehicles:

<b>Mercedes Vehicle Models and Years</b>	
Mercedes ML 320	2007-2016
Mercedes ML 350	2007-2016
Mercedes GL 320	2007-2016
Mercedes E320	2007-2016
Mercedes S350	2007-2016
Mercedes R320	2007-2016
Mercedes E Class	2007-2016
Mercedes GL Class	2007-2016
Mercedes ML Class	2007-2016
Mercedes R Class	2007-2016
Mercedes S Class	2007-2016
Mercedes GLK Class	2007-2016
Mercedes GLE Class	2007-2016
Mercedes Sprinter	2007-2016

By way of background, the EPA has also brought actions against the manufacturers of the Affected Vehicles for violating the Clean Air Act (“CAA”) by selling the Affected Vehicles equipped with defeat devices. The EPA alleged that these Affected Vehicles are equipped with defeat devices in the form of computer software designed to cheat federal emissions tests. The major excess pollutant at issue in those cases was oxides of nitrogen (NO<sub>x</sub>), which is a serious health concern.

The EPC requests the following categories of information:

- I. To the extent the EPA has already produced documents to Volkswagen<sup>3</sup> pursuant to a FOIA request by its counsel, the EPC requests the same documents produced by the EPA in connection with said FOIA request.
- II. From the date of the EPA's production of documents pursuant to any Volkswagen FOIA request to the present, please produce the following documents:
  1. All records regarding or concerning emissions testing, or any other reports and/or analysis, conducted on the Affected Vehicles by the EPA.
  2. All records and communications regarding or concerning any investigation, action, litigation, or proceeding, administrative or otherwise, considered or taken by the EPA against Volkswagen AG, Volkswagen Group of America, Inc., Audi of America, LLC, Porsche Cars North America, Inc., Mercedes-Benz USA, LLC, Daimler Aktiengesellschaft, Robert Bosch, LLC, or Robert Bosch GmbH relating to allegations of emissions tampering involving defeat devices in the Affected Vehicles, and the implementation of post-sale updates to the defeat devices in the Affected Vehicles. This includes but is not limited to:
    - a. *United States v. Volkswagen AG, et al.*, Case No. 3:16-cv-00295 in the N.D. Cal.
    - b. *United States v. Daimler AG and Mercedes-Benz USA, LLC*, Civil Action No.: 1:20-cv-2564 in the District of Columbia.
  3. All records regarding or concerning any certificates of conformity issued by the EPA that involved the Affected Vehicles.
  4. All records regarding or concerning any Notices of Violation issued by the EPA that involved the Affected Vehicles.
  5. All communications between the EPA and the California Air Resources Board, the European Commission, any state attorneys general, Congress, the Department of Justice, the Federal Trade Commission, or any other federal or state governmental authority relating to allegations of emissions tampering involving defeat devices in the Affected Vehicles, and the implementation of post-sale updates to the defeat devices in the Affected Vehicles.
  6. All communications between the EPA and any manufacturer or supplier of the Affected Vehicles or their emission control systems, including but not limited to Volkswagen AG, Volkswagen Group of America, Inc., Audi of America, LLC, Porsche Cars North America, Inc., Mercedes-Benz USA, LLC, Daimler Aktiengesellschaft, Robert Bosch, LLC, or Robert Bosch GmbH relating to allegations of emissions tampering involving defeat devices in the Affected Vehicles, and the implementation of post-sale updates to the defeat devices in the Affected Vehicles.

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<sup>3</sup> For purposes of these requests, "Volkswagen" refers to Volkswagen Aktiengesellschaft, Volkswagen Group of America, Inc., Audi Aktiengesellschaft, and Audi of America, LLC.

7. All guidance given to the Environmental Protection Commission of Hillsborough County, Florida by the EPA regarding or concerning environmental protection and/or the interpretation or enforcement of Clean Air Act, 42 U.S.C. 7401 *et seq.*.

8. All records relating to the impact on emissions of any post-sale update to the emission control system of the Affected Vehicles.

In addition to the records requested above, the EPC also requests records describing the processing of this request, including records sufficient to identify search terms used, locations and custodians searched, and any tracking sheets used to track the processing of this request. If the EPA uses FOIA questionnaires or certifications completed by individual custodians, or components to determine whether they possess responsive materials or to describe how they conducted searches, the EPC also requests any such records prepared in connection with the processing of this request.

The EPC seeks all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms “record” and “communication” in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions. This request includes any attachments to these records. No category of material should be omitted from search, collection, and production.

Please search all records regarding agency business. You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts. Records of official business conducted using unofficial systems or stored outside of official files are subject to FOIA. It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; we have a right to records contained in those files even if material has not yet been moved to official systems or if officials have, through negligence or willfulness, failed to meet their obligations. In the event the EPA asserts that some portions of the requested records are exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

If the EPA maintains the records the EPC seeks in electronic form, please provide the information in that form. Otherwise, pertinent records may be provided in printed form. The EPC understands that it may obtain copies of the requested documents at a cost of fifteen (15) cents per page. It is also aware that if the requested records are too voluminous, the EPA will contact it and provide an opportunity to limit or modify this request. Please respond within twenty (20) calendar days from the date the EPA receives this request as to whether this request specifies identifiable records that are not exempt from disclosure under the FOIA, or are privileged or otherwise

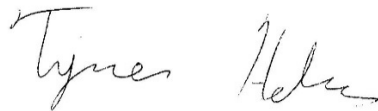
confidential, and therefore subject to disclosure. The EPC understands that this time may be extended for ten (10) working days for unusual circumstances, and that the EPC will be notified of such extension, if any, and the reasons therefore.

Please send any responsive material by email to [tyner.helms@beasleyallen.com](mailto:tyner.helms@beasleyallen.com) or by mail to Tyner D. Helms, Beasley, Allen, Crow, Methvin, Portis & Miles, P.C., 218 Commerce Street, P.O. Box 4160, Montgomery, AL 36103-4160.

Finally, the EPC requests to have any fees in connection with this FOIA request waived on the grounds that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the EPA with regard to its emissions testing and enforcement of regulations. Further, disclosure of the requested records would serve the interest of the EPC, a public, local governmental entity, in enforcing and preserving the integrity of its own air pollution regulations. ***Finally, should the EPA decline this fee waiver, we ask that the EPA contact us regarding the amount of expenses required to complete this FOIA request before we incur them.***

I look forward to working with you on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact me at [tyner.helms@beasleyallen.com](mailto:tyner.helms@beasleyallen.com) or (334) 495-1325.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tyner Helms".

TYNER HELMS